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1000 WASHINGTON STREET
FALL RIVER, MA 02720

NICHOLAS D. BERNIER, Esq.
NBERNIE@DARROWEVERETT.COM

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SOUTHCOAST OFFICE:

10 North Main Street

3rd Floor

Fall River, MA 02720

Tel: (508) 675-1576

Fax: (508) 672-6196

April 3, 2017

Via US Postal Service

Kevin Mizikar

Town Administrator - Town of Leicester

3 Washburn Square

Leicester, MA 01524

Re: Massachusetts Public Records Request – Tax Records

Dear Records Access Officer:

This is a request under the Massachusetts Public Records Law (M. G. L. c. 66, § 10). I am requesting that I be provided a copy of the following records:

1. Historic commercial and residential tax rates (mill rates) for both Personal and Real Property from 1996 to Present.
2. Methods used by the Board of Assessors (or such other responsible town office) to determine the value of Personal Property.
3. Copies of any depreciation schedules used by the Town when valuing Personal Property.

I recognize that you may charge reasonable costs for copies, as well as for personnel time needed to comply with this request. If you expect costs to exceed \$50.00, please provide a detailed fee estimate.

The Public Records Law requires you to provide me with a written response within ten (10) business days. See M.G.L. c.66 §10(a-b); 950 CMR 32.06(2)(a). If you cannot comply with my request, you are statutorily required to provide an explanation in writing detailing the cause for denial. See M.G.L. c.66 §10(a-b). If you require more than ten (10) business days to complete the request you may petition the Supervisor of Records for additional time. See 950 CMR 32.06(4)(e).

This request may be satisfied by regular mail to the address stated on the letterhead or by electronic mail sent to: nbernier@darroweverett.com.

Sincerely yours,

Nicholas D. Bernier, Esq.

TOWN OF LEICESTER TAX RATE HISTORY, SINGLE RATE FOR ALL CLASSES

FY YEAR	RATE
17	15.48
16	14.9
15	14.45
14	14.53
13	13.62
12	13.18
11	12.44
10	11.73
9	10.4
8	9.38
7	9.31
6	10.01
5	10.5
4	13.24
3	14
2	13.81
1	16.89
2K	16.49
99	15.85
98	16.15
97	15.76
96	15.35

Introduction

Definition of Personal Property

The Personal Property Tax is assessed separately from real estate. This tax is assessed upon non-real estate, tangible assets. These assets are composed of goods, material objects and other things capable of material ownership that are not part of real estate.

Personal property is property owned by an individual or business which is movable and is not affixed to or associated with the land. Basically, personal property is everything except real property. Personal property for a business would include equipment, office furniture and equipment, cars/trucks purchased and used by the business, and, basically, everything that isn't "nailed down."

In other words, personal property is movable, while real property is not. Because of the mobile nature of personal property, it is more difficult for an entity to use personal property to secure a loan. For example, if a bank loans money on a building, it can be sure that the building will not be moved. But if a bank loans money on the car, the car can be driven away.

Personal property is assessed by the town where the property is "situated" on the assessment date. In limited circumstances personal property may be assessed by the community in which the owner is an inhabitant on January 1st, even if the property is located in another community on that day. This primarily applies to items that may not be permanently situated in a town, such as construction equipment.

A Form of List (State Tax Form 2) must be filed each year by all individuals, partnerships, associations, trusts and corporations that own or hold personal property on January 1st unless expressly exempt. Individuals owning or holding household furnishings and effects not located at their primary residence on January 1st must file State Tax Form 2HF. Form 2HF is generally used by individuals who own a vacation home. A Form of List must be filed by March 1st with the Board of Assessors unless an extension is granted. Request for an extension must be made in writing to the assessors.

The information in the Form of List is used by the Board of Assessors to determine the taxable or exempt status of personal property and, if taxable, its fair market value. The Assessors may request further information about the personal property in writing and seek cooperation to inspect it if necessary. Forms of List are confidential and therefore are not available to the public for inspection under the public records law. They are available only to the Board of Assessors and Massachusetts Department of Revenue for the purpose of administering the tax laws.

For the purpose of taxation Personal Property is divided into two classes; Locally Valued Personal Property and Centrally owned Personal Property. The DOR values Centrally owned Personal Property. Assessors must use the DOR values in assessing taxes on the property.

Centrally valued personal property includes:

1. Pipelines of Natural Gas and Oil companies that extend for *more than 25 miles* in Massachusetts per M.G. L. C.59 §38A. Pipelines of Gas and Electric Companies are valued locally.
Pipeline companies must file a return with DOR by January 31 of each year. DOR certifies the values to Assessors by June 15. Pipeline owners and the Assessors may appeal the valuations to the ATB by July 15.
2. Machinery, poles, wires, underground conduits, Wires and pipes of Telephone and Telegraph Companies per M.G.L. c. 50 §39. DOR accepts returns from the companies and sets the value.
3. Telephone, cable television and internet service as part of a package as a telephone company as determined in a court case RCN-BecoComLLC v. Commissioner of Revenue, 443 Mass. 198 (2005)
4. Wireless, Mobile, Cellular Towers under a March 2008 Appellate Tax Board Order in the Verizon New England, Inc.: Consolidated Central Valuation Appeals, poles and wires of incorporated telephone and telegraph companies are considered subject to taxation under M.G.L. c. 59 § 18, First. Effective for the fiscal year 2010, the poles and wires over public ways are taxable under a 2009 statutory amendment. ATB Docket C273560 docketed at the appeals court as Verizon New England Inc. V City of Boston and others, 2009-P-2342; St. 2009, c.27. §§ 25 and 149 amending M.G.L. c.59 §18, Fifth

Audits of locally and centrally reported personal property.

The Assessor may audit the books, papers, records and other data of the taxpayer in order to determine whether the taxpayer has accurately reported all taxable personal property. The audit may be conducted within three years of the date of the original return (Form of List) was due or filed, whichever is later. If the Assessors discover unreported or inaccurately reported taxable personal property during the audit, they may assess the additional taxes within three years and six months of the date of the return is due or filed, whichever is later. M.G.L. c. 59 §32.

Disclosure: Details of the personal property contained in the books, papers, records and other data reviewed during the audit is confidential and may only be inspected by the Assessor and their staff, DOR and designated private auditors, but may be shown to other persons by court order. M.G.L. c. 59 §32.

Penalties for not complying with Local Audit: If the taxpayer does not comply with the audit requests for books, papers, records and other data, the Assessors cannot grant an abatement for overvaluation of the personal property for that year. M.G.L. c.59 §61 as amended by St. 2010, c. 188, §§ 45,52 and 53.

Personal property valued by the DOR may also be subject to audit. The Assessors must then assess the additional taxes to the owner within two months of the date of the amended certification and the owner may appeal the valuation to the ATB within one month of the date of the additional assessment notice is sent. M.G.L. c. 59 § 42A, as added by St. 2010, c. 188 §40.

Classification of Personal Property

There is clear stratification of values in all Personal Property based on features and characteristics.

Example: In the concept of personal property there is a sub classification of Computers/Tablets & Networking. In that sub classification there is a species of Printers, Scanners & Supplies. The species is divided into two genus, those named and unnamed (other) both in which one can find color network printers on eBay.

Example; In the sub classification of Business & Industrial is a species of Restaurants and Catering in which one genus is ice making machines.

Broad categories are 1) Furniture Fixtures and Equipment, 2) Computers and Peripherals, and 3) and each has its own depreciation table.

Massachusetts Personal Property Classification Codes CODE 5

M.G.L. Chapter 59 §2: All personal property...wherever situated, unless expressly exempt, shall be subject to taxation...

501 Individuals, Partnerships, Associations, Trusts, Limited Liability Companies and other non-incorporated entities filing for federal income tax purposes as non-incorporated entities

All personal property is taxable and includes: stock in trade¹, machinery used in the conduct of the business, personal property used in connection with any cleaning or laundry processes,

¹ There is no definition of this term in the Massachusetts Code. It is not in Municipal Bulletin No 38 (Laws relating to municipal finance). Determination therefore is on a case by case basis. The business definition is : 1: *the equipment, merchandise, or materials necessary to or used in a trade or business*, 2: *something that resembles the standard equipment of a tradesman or business* <humor was her stock-in-trade as a writer>

machinery used in the refrigeration of goods or in the air conditioning of premises, and all furnishings and effects not kept at an individual's domicile.

502 Business Corporations, as defined in Chapter 63 30 and taxable under Chapter 63§39, including unincorporated entities treated as corporations for federal income tax purposes.

Taxable personal property includes only: underground conduits, poles, wires and pipes, whether on public or private property; and machinery used in the conduct of the business, except stock in trade or machinery directly used in connection with dry cleaning or laundering processes, refrigeration of goods, air conditioning of premises or in any purchasing, selling, accounting or administrative function.

503 Classified Manufacturing Corporations*, as defined in Ch. 63 42B, including unincorporated entities treated as corporations for federal income tax purposes.

Taxable personal property includes only: underground conduits, poles, wires and pipes whether on public or private property.

*Includes Classified Research & Development Corporations in communities accepting local option R & D exemptions and Classified Manufacturing and Research & Development LLCs with single member disregarded entities in communities accepting that local option exemption.

504 Utility Corporations, other than Telephone & Telegraph and Pipeline Corporation, taxed as business corporations, including unincorporated entities treated as corporations for federal income tax purposes.

Taxable personal property includes only: underground conduits, poles, wires and pipes whether on public or private property; and machinery used in the conduct of business, except stock in trade or machinery directly used in connection with dry cleaning or laundering processes, refrigeration of goods, air conditioning of premises or in any purchasing, selling, accounting or administrative function.

505 Machinery, Poles, Wires and Underground Conduits, Wires and Pipes of all Telephone and Telegraph Companies, as determined by the Commissioner of Revenue.

506 Pipelines of 25 Miles or More in Length for Transmitting Natural Gas or Petroleum, as determined by the Commissioner of Revenue.

508 Cellular/Mobile Wireless

Telecommunications Companies

550 Electric Generation Plants Personal Property

551 Electric Generation Plant P.P., Transition Value

552 Electric Generation P. P., Agreement Value

Revised March, 2015

Personal property valuation methodology

“Personal property is assessed at fair cash value as of January 1 each year per M.G.L. c.59 §38. Assessors usually use the cost method to estimate the value of personal property, typically relying on industry cost manuals. This may be reproduction, replacement or original cost, less depreciation as the situation warrants. The income and market sales approaches may be used in special circumstances, but are considered less reliable in the vast majority of personal property valuations.”

The cost method is the most widely accepted and there are depreciation charts which follow that are most commonly used. The cost manuals may not be readily available to the Assessor. The internet is a rich source of information to find evidence of original cost and will be deeply explored in this course.

The Assessor may be qualified under USPAP Standards Rule 6-1 to utilize other approaches such as income or market sales to derive a value. To do so the Assessor must be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce a credible mass appraisal (report). If the Assessor writes a narrative personal property appraisal report in conformance with USPAP it is admissible to the Appellate Tax Board as it is admissible in Court.

How to write a narrative personal property appraisal in conformance with USPAP is outside the scope of this workshop but lies within the scope of skills of Assessors, particularly if they once were appraisers of real or personal property.

Method of obtaining fair cash values for personal property

Value of assessment has to be based on evidence in order to be defensible. First step is to identify the personal property. Remember RCNLD replacement cost new less depreciation.

1. Ask the owner what he paid for the item, verify independently.
2. Find an identical item, new, currently for sale
3. Find original, historical price, use inflation rate calculator for the age
4. Find several used items in identical condition sold in recent past.

(In the cost method) “Depreciation must be based on age, condition and quality of the property. Property still in use has a utility value, even if its life expectancy has been exceeded and it has zero value for accounting or regulatory purposes. Generally, property in use should not be depreciated below twenty percent (20%), although depreciation to as low as five percent (5%) might be appropriate where economic obsolescence principles apply. Assessors must document depreciation allowances.”



Town Of Leicester
OFFICE OF THE ASSESSOR
3 Washburn Square
Leicester, Massachusetts 01524-1333
Phone: (508)892-7001 Fax: (508)892-7070

Personal Property Depreciation schedules:

Personal property schedules are proprietary to the mass appraisal software Corp.
Patriot Properties.

They may be contacted at the following address.

Patriot Properties Inc
123 Pleasant St
Marblehead, MA 01945